

1 **BEFORE THE ARIZONA MEDICAL BOARD**

2 In the Matter of

3 **SAM HOCHANE, M.D.,**

4 Holder of License No. 32092  
5 for the Practice of Allopathic Medicine  
6 In the State of Arizona.

Board Case No. MD-10A-32092-MDX

**FINDINGS OF FACT,  
CONCLUSIONS OF LAW AND ORDER**

7  
8 On February 9, 2011, this matter came before the Arizona Medical Board ("Board")  
9 for consideration of the Administrative Law Judge (ALJ) Brian Brendan Tully's proposed  
10 Findings of Fact, Conclusions of Law and Recommended Order. Sam Hochane, M.D.,  
11 ("Respondent") appeared before the Board; Assistant Attorney General Anne Froedge,  
12 represented the State. Christopher Munns with the Solicitor General's Section of the  
13 Attorney General's Office, was present and available to provide independent legal advice  
14 to the Board.

15 The Board, having considered the ALJ's decision and the entire record in this  
16 matter, hereby issues the following Findings of Fact, Conclusions of Law and Order.

17 **FINDINGS OF FACT**

- 18 1. The Arizona Medical Board ("Board") is the authority for licensing and regulating  
19 the practice of allopathic medicine in the State of Arizona.  
20 2. Sam Hochane, M.D. ("Respondent") is the holder of License No. 32092 issued by  
the Board for the practice of allopathic medicine in the State of Arizona.

**Case No. MD-07-1009A**

- 21 3. In November 2007, the Board received a complaint from M.A., a patient of  
22 Respondent, alleging that Respondent inappropriately touched her during an  
23 examination.  
24 4. Respondent denied sexually touching M.A.  
25

- 1 5. Case No. MD-07-1009A was dismissed based upon the following factor: "[A]  
2 psychosexual evaluation concluded that the sexual risk was moderate to low, and  
3 there were no witnesses present during the incident."

**Case No. MD-09-0602A**

- 4 6. On December 2, 2009, the Board issued an Order for Decree of Censure and  
5 Probation and Consent to Same against Respondent in Case No. MD-09-0602A,  
6 the terms of which are incorporated herein by reference.

- 7 7. Case No. MD-09-0602A involved a complaint by patient D.F. that Respondent had  
8 sexually assaulted her during treatment for severe migraines on April 24, 2009.

- 9 8. Although Respondent denied any sexual contact with D.F. during the treatment,  
10 Respondent made statements that he acted inappropriately to D.F. in a recorded  
11 telephone conversation with D.F.

- 12 9. Finding of Fact No. 6 of the Board's Order for Decree of Censure and Probation  
13 and Consent to Same stated in part the following:

On June 17, 2009, Respondent presented for a comprehensive  
14 psychosexual evaluation [relating to Case No. MD-09-0602A]. The  
15 evaluators' diagnostic impressions were that there was professional  
16 sexual misconduct and intensive residential treatment program prior  
17 to returning to practice was recommended.

- 18 10. Finding of Fact No. 6 of the Board's Order for Decree of Censure and Probation  
19 and Consent to Same also noted that "[o]n that same date, Respondent signed a  
20 practice restriction prohibiting him practicing clinical medicine or any medicine  
21 involving direct patient care, and from prescribing any form of treatment including  
22 prescription medications, until Respondent applies to the Board and receives  
23 permission to do so."

- 24 11. The Board's Order for Decree of Censure and Probation and Consent to Same  
25 ordered the following:

IT IS ORDERED THAT:

1. Respondent is issued a Decree of Censure.
2. Respondent's practice is restricted in that he shall only see male patients for a minimum of six months.

- 1                   3. Respondent is placed on probation for five years with the  
2                   following terms and conditions.
- 3                   a. Respondent shall enter a contract with a Board pre-  
4                   approved monitoring company to provide all monitoring  
5                   services. Respondent shall bear all costs of monitoring  
6                   requirements and services.
- 7                   b. Respondent shall immediately obtain individual  
8                   psychotherapy with an approved psychotherapist who  
9                   specializes in sexual issues. Respondent shall comply with  
10                  the psychotherapist's recommendations for continued care  
11                  and treatment. Respondent shall instruct the  
12                  psychotherapist to release, upon request, all records relating  
13                  to Respondent's treatment regarding diagnosis, prognosis,  
14                  medications, and recommendations for continuing care and  
15                  treatment of Respondent. Respondent shall provide the  
16                  psychotherapist with a copy of this order. After twelve  
17                  months, Respondent may submit a written request to the  
18                  Executive Director requesting termination of the requirement  
19                  that Respondent remain in treatment with a psychotherapist.  
20                  The decision to terminate will be based, in part, upon the  
21                  treating psychotherapist's recommendation for continued  
22                  care and treatment.
- 23                  c. Respondent shall attend biweekly group therapy sessions  
24                  unless excused by the Executive Director for good cause  
25                  such as illness or vacation. Respondent shall instruct the  
                  group therapy facilitator to release, upon request, all records  
                  relating to Respondent's treatment, attendance, and  
                  progress.
- d. Respondent shall participate in a 12-step recovery program  
                  to address his sexual issues. Respondent shall attend a  
                  minimum of two 12-step meetings per week. One of those  
                  meetings may be on-line. Additionally, Respondent shall  
                  attend Caduceus meetings biweekly. Respondent must  
                  maintain a log of all meetings. Board Staff will provide the  
                  log to Respondent.
- e. Respondent shall establish and participate in the  
                  Professional Enhancement Program (PEP) at Pine Grove  
                  care monitoring in the workplace.
- f. Respondent shall within six months after the date of this  
                  Order present to PEP for a re-evaluation and determination  
                  of future workplace recommendations, including, but not  
                  limited to an assessment to determine whether Respondent  
                  can see female patients and whether he needs a  
                  chaperone. Respondent shall instruct PEP to release, upon  
                  request, all records relating to Respondent's treatment

1 regarding diagnosis, prognosis, and recommendations for  
2 continuing care and treatment of Respondent.

3 g. Respondent shall submit to polygraph testing every six  
4 months.

5 h. Respondent shall within six months of the effective date of  
6 this Order obtain 10-15 hours of pre-approved Category I  
7 Continuing Medical Education (CME) in boundaries and 10-  
8 15 hours in prescribing. Respondent shall submit a  
9 certificate of completion as satisfactory proof of attendance.  
10 The CME hours shall be in addition to the hours required for  
11 the biennial renewal of medical license.

12 i. Respondent's medical practice should include patient  
13 satisfaction surveys that explore levels of comfortableness  
14 with Respondent.

15 j. Respondent shall obey all state, federal and local laws, all  
16 rules governing the practice of medicine in Arizona, and  
17 remain in full compliance with any court ordered criminal  
18 probation, payments and other orders.

19 k. In the event Respondent should leave Arizona to reside or  
20 practice outside the State or for any reason should  
21 Respondent stop practicing medicine in Arizona,  
22 Respondent shall notify the Executive Director in writing  
23 within ten days of departure and return or the dates of non-  
24 practice within Arizona. Non-practice is defined as any  
25 period of time exceeding thirty days during which  
Respondent is not engaging in the practice of medicine.  
Periods of temporary or permanent residence or practice  
outside of Arizona or of non-practice within Arizona, will not  
apply to the reduction of the probationary period.

12. On October 30, 2009, Respondent executed the Consent to Entry of Order,  
wherein he acknowledged, among other things, that "Respondent has read and  
understands this Consent Agreement and the stipulated Findings of Fact,  
Conclusions of Law and Order (Order)."

13. Respondent agreed to paragraph 10 of the Consent to Entry of Order, which reads  
as follows:

Any violation of this Order constitutes unprofessional conduct and  
may result in disciplinary action. A.R.S. §§ 32-1401(27)(r)  
("[V]iolating a formal order, probation, consent agreement or  
stipulation issued or entered into by the board or its executive  
director under this chapter") and 32-1451.

**Respondent's Felony Convictions**

14. In May 2010, Respondent pled guilty to one count of Sexual Abuse, a Class 5 felony, committed against D.F. on April 24, 2009, one count of Sexual Abuse, a Class 5 felony, committed against M.A. on November 7, 2007, in Case No. CR20090549.
15. The Superior Court sentenced Respondent to incarceration in the county jail for a period of six months, beginning on January 15, 2011.
16. The Superior Court also sentenced Respondent to probation for a period of seven years, commencing on May 18, 2010.
17. Condition No. 28 of Respondent's criminal probation provided for the following:
- A. Abide by terms of Medical Board Probation.
  - B. If allowed to work after conviction not allowed to see female patients.
  - C. Must notify Arizona Medical Board of conviction within 72 hours.

**Case No. MD-10-0768A**

18. After receiving notice of Respondent's criminal felony convictions, Board staff opened Case No. MD-10-0768A against Respondent.
19. By letter dated June 4, 2010, Board staff informed Respondent of an open investigation in Case No. MD-10-0768A. Respondent was informed of the following initial allegations: "1. Committing and pleading guilty to felony charges," in violation of A.R.S. § 32-1401(27)(r), and "2. Knowingly making false statements to the board," in violation of A.R.S. § 32-1401(27)(jj).
20. The Board's assigned investigator, Marlene Young, issued an Investigative Report dated August 23, 2010, in Case No. MD-10-0768A.
21. In that Investigative Report, Ms. Young expressed the following conclusion regarding the allegation that Respondent knowingly made false statements to the Board:
- During an interview conducted in November 2007 with Dr. Hochane, he denied sexually touching Patient M.A. during her examination....Dr. Hochane admitted to the allegation in his response received by the Board on July 20, 2010....Dr.

Hochane also pled guilty in May 2010 to the sexual abuse of Patient M.A. that occurred in November 2007....Dr. Hochane's failure to admit to inappropriately touching Patient M.A. when the Board was investigating this matter; [sic] and later, entering to a plea of guilty for sexual abuse of Patient M.A. supports the following statutory violation<sup>1</sup> by a preponderance of evidence. [Footnote added.]

22. Ms. Young further expressed the following conclusion regarding the allegation that Respondent committed a felony:

In May 2010, Dr. Hochane pled guilty to two counts of felonious sexual abuse that occurred in April 2009 [D.F.] and November 2007 [M.A.]....Dr. Hochane also submitted a response admitting to the charges....Therefore, the following statutory violation<sup>2</sup> is supported by a preponderance of evidence..." [Footnote added.]

**Case No. MD-10-0904A**

23. The Board opened Case No. MD-10-0904A regarding Respondent's unprofessional conduct in failing to comply with the terms of the Board's Order for Decree of Censure and Probation and Consent to Same in Case No. MD-09-0602A.
24. By letter dated July 7, 2010, Board staff informed Respondent of the following allegation in Case No. MD-10-0904A: violation of the Board's Order in Case No. MD-09-0602A due to Respondent's failure to attend group therapy, failure to obtain required CME, and failing a polygraph test as part of a re-evaluation.
25. From June 2, 2010 to June 8, 2010, Respondent was evaluated by PEP.
26. Respondent's Discharge Summary from PEP contained the following diagnosis:

Axis I	Occupational Problem – Professional Sexual Misconduct – Frotteurism
Axis II	Narcissistic Personality Disorder
Axis III	None reported
Axis IV	Psychosocial stressors were severe and included financial difficulties and medical practice restrictions

<sup>1</sup> A.R.S. § 32-1401(27)(jj)

<sup>2</sup> A.R.S. § 32-1401(27)(d)

27. The PEP Discharge Summary described the following concerns for Respondent:

1. Lack of honesty in describing his boundary violations. For example, following pleading guilty to 2 counts of sexual battery in an AZ courtroom, Dr. Hochane did not return to the AZ Medical Board to correct his earlier dishonesty regarding the violation of patient MA.
2. He denied understanding why a Prescribing Boundaries CME was ever recommended.
3. He maintained several cognitive distortions around his limitations. For example, he stated he had learned everything he needed to learn around his violations because he would not be "stupid" enough to ever do this again.
4. He maintained a victim stance when describing his situation instead of taking responsibility for his sexual boundary violations. Specifically, when discussing his issues in the groups he would go into great detail of his financial hardship while omitting his sexual boundary violations. In addition, he initially limited his disclosure to one event with one victim and had to be asked by the staff and peers for him to take ownership of other violations.
5. He was disrespectful of staff, particularly females.

28. The PEP staff made the following recommendation in the Discharge Summary:

Dr. Hochane should maintain his restriction of seeing male patients only. He demonstrated a continued lack of self examination, which only increases his potential of future revictimization of patients and staff. Because of this and his limited insight, lack of understanding the severity of his boundary violations and untreated narcissism, it is recommended that Dr. Hochane increase his treatment contact, including more frequent individual and group sessions. This limited contact of meeting with his therapist every other week does not allow for the treatment of his issues at this time. In order to provide higher levels of accountability and supplement his current treatment, at least weekly contact in group and individual therapy is recommended.

29. The PEP staff also made the following return to work recommendations for Respondent:

1. Follow all guidelines and recommendations of the Arizona Board of Medical Examiners [sic].

- 1                   2. Continue to see male patients only for one year.
- 2                   3. In one year, return to PEP for a reevaluation and determination of
- 3                   4. Continue the polygraph examination every 6 months.
- 4                   5. Continue use of patient satisfaction surveys that explore levels of
- 5                   comfortableness with Dr. Hochane.
- 6
- 7                   30. As required by the Board's Order for Decree of Censure and Probation and
- 8                   Consent to Same, Respondent entered into a contract with Affiliated Monitors, Inc.
- 9                   ("AMI") to provide all monitoring services. AMI provided a report to the Board
- 10                  dated July 6, 2010, in which AMI stated that Respondent had violated the terms of
- 11                  the Board's Order for Decree of Censure and Probation and Consent to Same by
- 12                  failing to attend individual and group therapy as ordered, failing to continue his
- 13                  participation in a 12-step recovery program, and failing to complete the CME
- 14                  courses as ordered.
- 15                  31. On September 15, 2010, Board staff received another report from AMI that
- 16                  indicated Respondent's continued non-compliance with the terms of the Board's
- 17                  Order for Decree of Censure and Probation and Consent to Same. Specifically,
- 18                  AMI reported that Respondent did not participate in group therapy, individual
- 19                  psychotherapy, or the 12-step or Caduceus Program, nor did he obtain the CME
- 20                  courses ordered by the Board.
- 21                  32. Respondent contends that he could no longer comply with the terms of the Board's
- 22                  Order for Decree of Censure and Probation and Consent to Same due to financial
- 23                  constraint.
- 24                  33. Respondent is determined to have violated the Board's Order for Decree of
- 25                  Censure and Probation and Consent to Same without legal justification.
- Respondent consented to the terms of his probation, but he failed to comply with
- those terms.
34. Respondent knowingly made a false statement to the Board in Case No. MD-07-
- 1009A when he stated that he had not sexually touched patient M.A. as she
- alleged.



- 1 35. Respondent's contention that he should be permitted to resume practicing  
2 medicine treating female patients while being chaperoned is not justified by the  
3 evidence. First, Respondent had failed to comply with the Board's Order for  
4 Decree of Censure and Probation and Consent to Same. At hearing, Tina Taylor  
5 testified for Respondent. At the time of the incident involving D.F., Ms. Taylor was  
6 present in Respondent's office, where she worked for another physician, when  
7 Respondent sexually touched D.F. during treatment. Even with a staff member  
8 present, Respondent was able to commit the crime of sexual abuse against D.F.
- 9 36. Respondent's failure to comply with the Board's Order for Decree of Censure and  
10 Probation and Consent to Same, his denial to the Board of inappropriately  
11 touching M.A., and his felony convictions for sexually abusing patients M.A. and  
12 D.F. constitute threats to the public health, safety or welfare warranting the  
13 Board's emergency action of summarily suspending Respondent's medical  
14 license.

### 15 **CONCLUSIONS OF LAW**

- 16 1. The Board has jurisdiction over Respondent and the subject matter in Case Nos.  
17 MD-10-0904A and MD-10-0768A.
- 18 2. Pursuant to A.R.S. § 41-1092.07(G) (2) and A.A.C. R2-19-119(B), the Board has  
19 the burden of proof in these matters. The standard of proof is preponderance of  
20 the evidence. A.A.C. R2-19-119(A).
- 21 3. Respondent committed unprofessional conduct in violation of A.R.S. §§ 32-  
22 1401(27) (d), 32-1401(27) (z), 32-1401(27) (r), and 32-1401(27) (jj). The evidence  
23 of record supports this conclusion.
- 24 4. The evidence of record supports the Board's summary suspension of  
25 Respondent's medical license to protect the public health, safety or welfare  
pursuant to A.R.S. § 32-1451(D).

### 26 **ORDER**

27 The Board's summary suspension of Respondent's License No. 32092 in Case  
28 Nos. MD-10-0904A and MD-10-0768A is upheld and affirmed.

1 Respondent's License No. 32092 shall be revoked on the effective date of the  
2 Order entered in Case Nos. MD-10-0904A and MD-10-0768A.

3 Respondent shall be assessed the costs of the formal hearing, pursuant to A.R.S.  
4 § 32-1451(M). Payment of those costs shall be due no later than 60 days from the date of  
5 invoicing by the Board, unless the Board or its designee amends that deadline date.  
6

7 **RIGHT TO PETITION FOR REHEARING OR REVIEW**

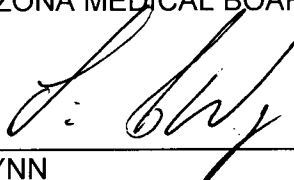
8 Respondent is hereby notified that he has the right to petition for a rehearing or  
9 review. The petition for rehearing or review must be filed with the Board's Executive  
10 Director within thirty (30) days after service of this Order. A.R.S. § 41-1092.09(B). The  
11 petition for rehearing or review must set forth legally sufficient reasons for granting a  
12 rehearing or review. A.A.C. R4-16-103. Service of this order is effective five (5) days  
13 after date of mailing. A.R.S. § 41-1092.09(C). If a petition for rehearing or review is not  
14 filed, the Board's Order becomes effective thirty-five (35) days after it is mailed to  
Respondent.

15 Respondent is further notified that the filing of a motion for rehearing or review is  
16 required to preserve any rights of appeal to the Superior Court.

17 DATED this 9<sup>TH</sup> day of February 2011.



THE ARIZONA MEDICAL BOARD

22 By   
23 LISA WYNN  
24 Executive Director  
25

26 ORIGINAL of the foregoing filed this  
27 11<sup>th</sup> day of February, 2011 with:

28 Arizona Medical Board  
29 9545 East Doubletree Ranch Road  
30 Scottsdale, Arizona 85258

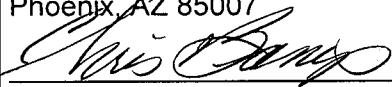
1 COPY OF THE FOREGOING FILED  
2 this 17th day of February, 2011 with:

3 Cliff J. Vanell, Director  
4 Office of Administrative Hearings  
5 1400 W. Washington, Ste 101  
6 Phoenix, AZ 85007

7 Executed copy of the foregoing  
8 mailed by U.S. Mail this  
9 17th day of February, 2011 to:

10 Sam Hochane, M.D.  
11 Address of Record

12 Anne Froedge  
13 Assistant Attorney General  
14 Office of the Attorney General  
15 CIV/LES  
16 1275 W. Washington  
17 Phoenix, AZ 85007

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20 # 1420922  
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